

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : Criminal No. 1:00-CR-00119-002
:
v. : (Chief Judge Kane)
:
TOM ELLIOTT, III : (Electronically Filed)

MOTION FOR WITHDRAWAL OF COUNSEL IN PROCEEDINGS
RELATED TO CRACK COCAINE AMENDMENT

AND NOW, comes the Federal Public Defender's Office, and files this Motion for Withdrawal of Counsel in Proceedings Related to Crack Cocaine Amendment, and in support thereof, avers as follows:

1. On April 17, 2008, Mr. Elliott filed a *Pro Se* Motion to Modify Term of Imprisonment pursuant to 18 U.S.C. § 3582(c)(2) (Noting Amendments to the Guidelines of November 1, 2007).
2. In this motion, Mr. Elliott asks for a sentence reduction and requests a new sentencing hearing based upon 18 U.S.C. § 3582(c)(2) and relevant case law.
3. On April 17, 2008, the Federal Public Defender's Office was appointed to represent Mr. Elliott for the purpose of addressing the crack cocaine amendment pursuant to 18 U.S.C. § 3582(c)(2).

4. On February 29, 2008, Chief Judge Kane issued a Standing Order with respect to appointment of counsel in proceedings related to the retroactive crack cocaine guideline amendments. In this Order, the Court states that counsel will be appointed where it appears that a defendant may be eligible for a sentence reduction.

5. After a review of the case, it appears that Mr. Elliott was sentenced pursuant to powder cocaine guidelines at USSG § 2D1.1.

6. Because the above case does not appear to be a crack cocaine case, the Federal Public Defender's Office moves this Court to withdraw as counsel in the proceedings related to the crack cocaine amendment pursuant to 18 U.S.C. § 3582(c)(2).

7. The government concurs with the granting of this motion.

WHEREFORE, based on the above, the Federal Public Defender's Office respectfully requests that this Honorable Court grant the motion to withdraw as counsel in proceedings related to crack cocaine amendment.

Respectfully submitted,

Date: July 7, 2008

/s/ Heidi R. Freese

HEIDI R. FREESE, ESQUIRE
Assistant Federal Public Defender
Attorney ID #PA87668
100 Chestnut Street, Suite 306
Harrisburg, PA 17101
Tel. No. (717) 782-2237
Fax No. (717) 782-3881
<Heidi_Freese@fd.org>
Attorney for Tom Elliott

CERTIFICATE OF SERVICE

I, Heidi R. Freese of the Federal Public Defender's Office, do hereby certify that I served a copy of the foregoing **MOTION FOR WITHDRAWAL AS COUNSEL IN PROCEEDINGS RELATED TO CRACK COCAINE AMENDMENT**, via Electronic Case Filing, or by placing a copy in the United States mail, first class in Harrisburg, Pennsylvania, addressed to the following:

WILLIAM A. BEHE, ESQUIRE
Assistant United States Attorney

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DREW THOMPSON
United States Probation Officer

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TOM ELLIOTT

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Date: July 7, 2008

/s/ Heidi R. Freese

HEIDI R. FREESE, ESQUIRE
Assistant Federal Public Defender
Attorney ID #PA87668
100 Chestnut Street, Suite 306
Harrisburg, PA 17101
Tel. No. (717) 782-2237
Fax No. (717) 782-3881
<Heidi_Freese@fd.org>
Attorney for Tom Elliott